

### **REMARKS**

Applicant(s) have now had an opportunity to carefully consider the Examiner's comments set forth in the Office Action, mailed April 25, 2005. Applicant(s) appreciate the indication of allowable subject matter. Nonetheless, review and reexamination is respectfully requested.

#### **The Office Action**

The Examiner rejected claims 1-7 and 21-24 under 35 U.S.C. 103(a) as being unpatentable over Navarro (US 2003/0143974) in view of Manson (US 6,543,051), rejected claims 8-12 under 35 U.S.C. 103(a) as being unpatentable over Navarro (US 2003/0143974) and Manson (US 6,543,051) in view of Patel (US 2002/011397), and rejected claims 15, 16 and 26 under 35 U.S.C. 103(a) as being unpatentable over Navarro (US 2003/0143974) and Manson (US 6,543,051) in view of Sweatt (US 2003/0179089).

The Examiner objected to claims 13, 14 and 25 as being dependant upon a rejected base claim; however, the claims would be allowable if rewritten in independent form. The Examiner also allowed claims 17-20.

#### **The Subject Invention**

By way of brief review, the subject invention is method for broadcasting an emergency message in a wireless network. The method particularly relates to the augmentation of a telecommunication system in order to broadcast messages from the telecommunication systems to mobile stations associated with the wireless network. The wireless network augments the emergency alert system by providing an infrastructure for the communication of the message. The method includes a) receiving a message notice that a message to be broadcast is forthcoming as well as instructions designating a geographic area associated with the message; this message and message notice can be released on the either local, state, regional or national level depending on the designation given, b) transmitting the message notice to the mobile stations associated with that geographic area; c) receiving the message; d) broadcasting that message over a broadcast channel associated with the wireless network and designated geographic area; e) receiving a termination notice; f) terminating the message broadcast and g) transmitting the termination notice to the

mobile stations.

### **The Cited Art**

In contrast, the primary reference of the Office Action is to Navarro which discloses a method of distributing an emergency message by a) determining the geographic area; b) selecting the mobile stations within that area; and c) delivering the message. The Navarro makes no reference to message notices, message cues or any form or termination notice or termination cues.

The Examiner also cites the Manson reference which discloses a system for inputting conventional emergency alert messages into digital subscriber television system. The method includes putting the method into an appropriate audio or display file, creating a digital emergency alert message identifier and transmitting the digital emergency alert message to the corresponding digital television subscriber. Manson also does not teach message cues.

The Examiner also cites the Patel reference which is a wireless access management system. The system allows a wireless network to dedicate phone channels for alternative purposes in order to increase data throughput. This will establish payload channels directly with wireless devices when high bandwidth data exchanges are needed.

Lastly, the Examiner cites Sweatt. Sweatt discloses an electrical communication system containing a sensor, two transmitters, and two receivers. The sensor sends a radio frequency to the communication signal to the first transmitter which transmits the signal to the first receiver. The first receiver then communicates the signal to the second transmitter which sends the warning as required by the content of the signal to a desktop receiver or pocket pager.

### **The Pending Claims 1-7 and 21-24 are Not Obvious Over Navarro in View of Manson.**

The Examiner rejected claim 1-7 and 21-24 under 35 U.S.C. §103(a) as being unpatentable over Navarro in view of Manson. Applicant(s) respectfully traverse for the following reasons.

There is no motivation to combine the two references. In order to properly

combine references under 35 U.S.C. §103, there must be some suggestion or motivation to modify or combine reference teachings (MPEP §2143.01). Here there is no motivation to combine the teachings of Navarro and Manson. The two references are directed to completely different applications and seek to solve different problems. In this respect, one practicing the invention of Navarro would have no motivation to use the notification or termination features of Manson. Navarro teaches a system that transmits the EAM over a wireless network. This system can only be used for a wireless communication system. On the other hand, Manson teaches a system for communicating a message through digital television via USB or a similar communication means. Manson does not teach a communication path that can be implemented without a support from an application server. (Manson col. 8 ll 8-12) Navarro does not reference or even allude to an application server. There must be some suggestion or motivation to make the proposed modification. Here, there is no such suggestion. It is not permissible to pick and choose among the individual elements of assorted prior art references to recreate the claimed invention. *Symbol Technologies, Inc. v. Opticon, Inc.*, 19 USPQ2d 1241 (Fed. Cir. 1991). Therefore, for at least these reasons, claims 1-7 and 21-24 are currently in condition for allowance and withdrawal of this rejection is respectfully requested.

**The Pending Claims 8-12 are Not Obvious Over Navarro and Manson in View of Patel.**

The pending claims 8 – 12 were rejected under USC §103 as being unpatentable over Navarro and Manson in view of Patel. Because the claims from which these claims depend are allowable, claims 8-12 are submitted to be allowable. Moreover, for at least the following reasons applicants respectfully traverse.

Again, there is no motivation to combine the references. To properly combine references under 35 U.S.C. §103 there must be some suggestion or motivation to combine the teachings of these separate references. In this respect, the lack of motivation for combining Navarro and Manson is outlined above. Citing Patel for disclosure of a PSTN, for example, does not cure these deficiencies. For at least these reasons, claims 8-12 are currently in condition for allowance.

**The Pending Claims 15, 16 and 26 are Not Obvious Over Navarro and Manson in view of Sweatt.**

The pending claims 15, 16 and 26 were rejected under USC §103 as being unpatentable over Navarro and Manson in view of Sweatt. Because the claims from which they depend are submitted to be allowable, claims 15, 16 and 26 are submitted to be allowable. Moreover, for at least the following reasons, applicants respectfully traverse.

Again, there is no motivation to combine the references. In order to properly combine references under 35 U.S.C. §103 there must be some suggestion or motivation to combine the teachings of these separate references. In this respect, the lack of motivation for combining Navarro and Manson is outlined above. Furthermore there is no motivation to combine Sweatt with either Navarro or Manson. Sweatt primarily concerns an emergency broadcast system using a radio frequency communication signal. Neither Navarro nor Manson use this type system to transfer information. Navarro uses a telecommunication method and Manson uses digital signals paired with application servers in order to communicate the message. Rather, Sweatt expressly teaches away from such communication techniques, stating that such techniques are ineffective because “the alerts cannot be transmitted to receivers that are turned off.” (see paragraph [0004] in Background of the Invention.) In view of the above, it is respectfully requested that this rejection should be withdrawn.

However, even assuming the propriety of the proposed combination, such a combination fails to disclose or suggest a message termination cue. Examiner argues that Sweatt teaches a message cue. Even assuming that Sweatt does teach a message cue, Sweatt does not disclose or suggest teaching a *termination* cue as claimed in claims 15 and 16 and 26 of the proposed invention. Therefore, the combination of Navarro, Manson and Sweatt does not teach or suggest all aspects of the subject claims. For at least this reason, the claims 15, 16 and 26 are currently in condition for allowance.

**CONCLUSION**

For the reasons detailed above, it is respectfully submitted that all claims remaining in the application (Claims 1-26) are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to telephone Joseph D. Dreher, at (216) 861-5582.

Respectfully submitted,

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Date


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